

174774



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Patrick W. Turner

General Counsel-South Carolina

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July 13, 2005

Mr. Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius [Affiliates] an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended
Docket No. 2005-57-C

Dear Mr. Terreni:

Enclosed for filing are an original and ten copies of BellSouth Telecommunications, Inc.'s Motion for Extension of Time to File Post-Hearing Briefs and/or Proposed Orders in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this motion as indicated on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Patrick W. Turner".

Patrick W. Turner

PWT/nml

Enclosures

cc: All Parties of Record

DM5 # 592976

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

2005 JUN 13 10:17 AM
CLERK OF COURT
JULY 13 2005

In the Matter of)
)
Joint Petition for Arbitration of)
)
NewSouth Communications Corp.,)
NuVox Communications, Inc.)
KMC Telecom V, Inc., KMC Telecom III LLC, and)
Xspedius Communications, LLC on Behalf of its)
Operating Subsidiaries Xspedius Management Co.)
Switched Services, LLC, Xspedius Management Co.)
Of Charleston, LLC, Xspedius Management)
Co. of Columbia, LLC, Xspedius Management Co.)
Of Greenville, LLC, and Xspedius Management Co.)
Of Spartanburg, LLC)
)
Of an Interconnection Agreement with)
BellSouth Telecommunications, Inc.)
Pursuant to Section 252(b) of the)
Communications Act of 1934, as Amended)
)

Docket No. 2005-57-C

**MOTION FOR EXTENSION OF TIME TO FILE
POST-HEARING BRIEFS AND/OR PROPOSED ORDERS**

For the reasons set forth below, BellSouth Telecommunications, Inc. ("BellSouth") respectfully requests the Public Service Commission of South Carolina ("the Commission") to enter an Order extending the time allowed for all parties to file post-hearing briefs until 30 days after the Hearing Officer rules on BellSouth's Motion to Strike All Testimony Presented by Mr. Hamilton Russell, III ("Motion to Strike").

By virtue of the Commission Hearing Officer Directive entered in this docket on May 31, 2005 and the Commission's action during the June 1, 2005 hearing in this docket, the parties are allowed to file Post-Hearing Briefs and/or Proposed Orders 30

days following the date the transcript of the hearing is made available.¹ A copy of the hearing transcript was made available to the parties on July 8, 2005. Under the current schedule, therefore, the parties are allowed to file Post-Hearing Briefs and/or Proposed Orders on or before August 8, 2005.

However, BellSouth's Motion to Strike is pending, and the resolution of that Motion could substantially affect the contents of the record of this proceeding. BellSouth, therefore, respectfully requests that the Commission modify the procedural schedule to allow the parties to file Post-Hearing Briefs and/or Proposed Orders 30 days following the date the Hearing Officer rules on BellSouth's Motion to Strike. This will allow the parties to file briefs and/or proposed orders that are based on the contents of the record that is actually before the Commission.

Respectfully submitted, this 13th day of June, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



PATRICK W. TURNER
Suite 5200
1600 Williams Street
Columbia, South Carolina 29201
(803) 401-2900

DM5 #592917

¹ Exhibit A to this Motion is a copy of the Joint Motion Regarding Procedure that, on page 2, requests that the Commission allow the parties to file Post-Hearing Briefs and/or Proposed Orders 30 days following the date the transcript of the hearing is made available. Exhibit B to this Motion is a copy of the Commission Hearing Officer Directive that grants this Joint Motion with one exception that is not relevant to this Motion. Exhibit C to this Motion is a copy of page 566 of the hearing transcript, on which Chairman Mitchell confirms this filing deadline.

EXHIBIT A

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of)
)
Joint Petition for Arbitration of)
)
NewSouth Communications Corp.,)
NuVox Communications, Inc.)
KMC Telecom V, Inc., KMC Telecom III LLC, and)
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Of Greenville, LLC, and Xspedius Management Co.)
Of Spartanburg, LLC)
)
Of an Interconnection Agreement with)
BellSouth Telecommunications, Inc.)
Pursuant to Section 252(b) of the)
Communications Act of 1934, as Amended)
)

Docket No. 2005-57-C

JOINT MOTION REGARDING PROCEDURE

BellSouth Telecommunications, Inc. ("BellSouth") and NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc. and KMC Telecom III, LLC, and Xspedius Communications, LLC on behalf of its operating subsidiaries (collectively "Joint Petitioners") respectfully and jointly submit the following Motion regarding procedural matters in this docket. This motion supplements the Motion to Amend Arbitration Plan and Procedural Schedule ("Motion to Amend") filed by the Joint Petitioners on or about May 19, 2005. The Office of Regulatory Staff does not oppose this motion and concurs in the requests made herein.

A. Motion to extend the timeframe for resolving the unresolved issues.

For the reasons set forth in the Motion to Amend, the parties request that the Commission extend the timeframe for resolving the unresolved issues in this docket for three months, until on or about October 6, 2005.

B. Motion to Eliminate Requirement to File Briefs and/or Proposed Orders Prior to the Hearing.

For the reasons set forth in the Motion to Amend, the parties request that the Commission eliminate the requirement to file briefs and/or proposed orders prior to the hearing. Instead, the parties request that the Commission allow the parties to file Post-Hearing Briefs and/or Proposed Orders 30 days following the date the transcript of the hearing is made available.

C. Motion to Adopt Modified Procedure for Conduct of Hearing.

BellSouth and the Joint Petitioners are arbitrating the issues in this docket before each of the nine State Commissions in BellSouth's territory, and to date, they have taken part in hearings before seven of these State Commissions. Based on experience that BellSouth and the Joint Petitioners have gained from those seven hearings, the parties respectfully request that the Commission adopt the following modified procedure for the conduct of the hearing in this docket. The Kentucky Commission adopted a similar procedure and, as a result, the hearing in Kentucky was concluded in one day.

1. BellSouth may submit into the record in this docket one hearing transcript and record from another state proceeding, and the Joint Petitioners may submit into the record in this docket one hearing transcript and record from another state proceeding.¹

¹ This proposal allows for the development of a complete evidentiary record in a manner that is more efficient than developing this information by way of cross-examination during the hearing.

2. The written discovery and depositions from the North Carolina proceeding will be submitted into the record in this docket. If either BellSouth or the Joint Petitioners submit the transcript and record from the Florida proceeding pursuant to Item No. 1 above, then each party's responses to the discovery served by the Staff of the Florida Commission will be submitted into the record of this docket as well.²

3. Counsel for the parties will not make opening statements.

4. At the beginning of the hearing, each witness will have the opportunity to present an overall summary of his or her testimony, subject to a limitation of 15 minutes per side. When the examination of the witnesses on an issue-by-issue basis begins, the witness(es) for each side may present a summary of the issue being addressed, subject to a limitation of 2 minutes per side.

5. Following the presentation of a witness' summary of the issue being addressed, the witness will be subject to cross-examination by the ORS.

6. Following the ORS's cross-examination, the witness will be subject to questions from the Commission.

7. Following questions from the Commission, the witness will be subject to cross-examination by the remaining party. Cross-examination by BellSouth and the Joint Petitioners will be limited only to those issues raised by ORS or the Commission, plus any testimony or language proposals that differ from those in place at the time of the two hearing transcripts and records submitted pursuant to Item No. 1 above.

² Like the proposal in Item No. 1, this proposal allows for the development of a complete evidentiary record in a manner that is more efficient than developing this information by way of cross-examination during the hearing.

8. Re-direct examination will be limited to the scope of the questions from the ORS, the Commission, and the remaining party.

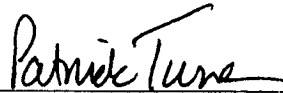
9. Counsel for the parties will not make closing statements.

D. Motion for Oral Argument

The Parties want to be sure that they have fully addressed any questions or concerns the Commission may have regarding the issues in this docket, and they will make their best efforts to do so during the hearing and in their post-hearing briefs. However, given the number of issues involved in this proceeding, the volume of the record before the Commission, and the complexity of some of the issues, the Commission may have questions or concerns that are not addressed by the testimony or the post-hearing briefs. As set out in the Motion to Amend, therefore, the Parties respectfully request that the Commission schedule oral argument within 30 days following the filing of Post-Hearing Briefs. The Commission could cancel the oral argument if it determines, after considering the post-hearing briefs, that there is no need for such argument.

Respectfully submitted this 26th day of May, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



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(803) 401-2900

JOINT PETITIONERS

Jack Pringle by fwt w/ permission
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1501 Main Street, Fifth Floor
Post Office Box 2285
Columbia, South Carolina 29202
(803) 343-1270

586901

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused the Joint Motion Regarding Procedure in Docket No. 2005-57-C to be served upon the following this May 26, 2005:

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2005 MAY 26 PM 4:00
CLERK OF COURT
COLUMBIA, SOUTH CAROLINA

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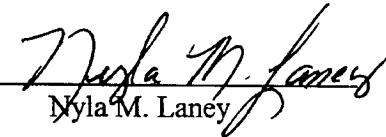
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Nyla M. Laney

PC Docs # 577384

EXHIBIT B

COMMISSION HEARING OFFICER DIRECTIVE

ADMINISTRATIVE MATTERS ☐

DATE May 31, 2005

MOTOR CARRIER MATTERS ☐

DOCKET NO. 2005-57-C

UTILITIES MATTERS ☒

ORDER NO. -

HEARING OFFICER: Joseph Melchers

DOCKET DESCRIPTION:

Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended

ADMINISTRATIVE MATTER UNDER CONSIDERATION:

May 26, 2005 Joint Motions of BellSouth Telecommunications, Inc. and NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius (Joint Petitioners), specifically: 1) Joint motion Regarding Procedure and 2) Joint Motion to Move Certain Issues to Generic Proceeding

HEARING OFFICER ACTION:

- 1) Joint Motion Regarding Procedure is deemed to replace Motion to Amend Plan and Procedural Schedule filed on May 19 by Joint Petitioners. Motion is granted with one exception: the request for Oral Argument subsequent to filing of Post-Hearing Briefs and Proposed Orders, which shall be held in abeyance subject to consideration by Commission at end of Arbitration Hearing.
- 2) Joint Motion to Move Certain Issues to Generic Proceeding is granted.

EXHIBIT C

1 CHAIRMAN MITCHELL: What we've decided,
2 Mr. Pringle, in that case, we're going to
3 hold that in abeyance, and we'll let you
4 know of that, our decision on that.

5 MR. PRINGLE: Okay. Do we have any
6 particular — is that already in our Agree-
7 ment about when Briefs and/or Proposed
8 Orders are due?

9 CHAIRMAN MITCHELL: Yes. What we're
10 going to do on that would be once the
11 transcripts are posted, they will be due
12 30 days from that.

13 MR. PRINGLE: Okay. To the extent, I
14 guess, I never can remember whether that
15 actually requires a waiver of that Com-
16 mission Rule that has to do with 30 days
17 from the hearing. I'd just ask that the
18 Commission go ahead and grant that waiver
19 as well.

20 CHAIRMAN MITCHELL: And that is granted.
21 We'll take note of that.

22 MR. PRINGLE: Okay.

23 CHAIRMAN MITCHELL: What our question
24 now would be, we have a number of documents
25 that have been submitted out of state, what

STATE OF SOUTH CAROLINA

)

)

COUNTY OF RICHLAND

)

CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth's Motion for Extension of Time to File Post-Hearing Briefs and/or Proposed Orders in Docket No. 2005-57-C to be served upon the following this July 13, 2005:

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SC PUBLIC SERVICE COMMISSION
2005 JUL 13 PM 12:17
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Chief Counsel
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(PSC Staff)
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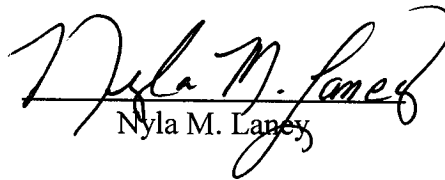
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Nyla M. Laney

PC Docs # 577384